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August 1, 2011

Hon. Lois Bloom  
United States Magistrate Judge  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Horatio Lamarche v. Sergeant Javier Agosto, City of New York, et al.  
Docket No.: 10 CV 561 (FB) (LB)

Your Honor:

I am trial counsel to Tanner & Ortega, the attorneys for defendant Sergeant Javier Agosto in the above-referenced matter. I write in partial support of the plaintiff's request for an extension of the deadline to complete discovery. Specifically, I join in plaintiff counsel's request for the deposition of Officer Murray.

Officer Murray is undeniably an important witness in this action. Though I strongly disagree with counsel's reference to an "attack", Officer Murray did apparently inform an investigator that she observed Sergeant Agosto strike the plaintiff in some manner as they rode an elevator. As she is the only DHS officer to have made such an allegation, I believe her deposition is essential to the defense of Sergeant Agosto.

Accordingly, I join in counsel's request for a short extension of the discovery deadline for the purpose of deposing Officer Murray. Though the City has indicated that Officer Murray is refusing to appear for a deposition and must be subpoenaed as a non-party witness, it is unclear how a City employee can be deemed a non-party in this action. I ask, therefore, that Your Honor order the City to produce Officer Murray for a deposition, either on a date certain or by a fixed deadline.

The Court's time and attention to this matter is greatly appreciated.

Respectfully submitted,

/s John V. Decolator

cc: BY ECF  
Alexandra Corsi, Assistant Corporation Counsel  
Gary Rawlins, Esq.